

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**KARL EBERT, CAROL KRAUZE, and
JACKIE MILBRANDT**, individually and
on behalf of others similarly situated,

Case No. 0:13-cv-03341-DWF-JJK

Plaintiffs,

v.

**DEFENDANT GENERAL MILLS,
INC.'S MOTION TO DISMISS THE
SECOND AMENDED COMPLAINT**

GENERAL MILLS, INC.,

Defendant.

Defendant General Mills, Inc. moves this Court for an Order dismissing Plaintiffs' Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1), because this Court lacks jurisdiction over Plaintiffs' RCRA claim (Count V) and Plaintiffs' requests for injunctive relief pursuant to section 113(h) of CERCLA, 42 U.S.C. § 9613(h), and because Plaintiffs lack standing to pursue their requests for injunctive relief under Article III of the United States Constitution. General Mills also moves this Court for an Order dismissing Plaintiffs' Second Amended Complaint pursuant to Federal Rule of Civil Procedure Rule 12(b)(6), because Plaintiffs have failed to state the following claims as a matter of law: Count I (CERCLA), Count II (negligence), Count III (nuisance), Count IV (willful and wanton misconduct), and Count V (RCRA).

This Motion is based upon the accompanying Memorandum of Law in support of the Motion, as well as the files, records, and proceedings herein.

Dated: April 10, 2014

Respectfully submitted,

s/ Benjamin W. Hulse

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